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Attorneys for Defendants Tyler Sycamore and Wild Grains Bakery, LLC

**IN THE UNITED STATES DISTRICT COURT,
DISTRICT OF UTAH CENTRAL DIVISION**

BIMBO BAKERIES USA, INC.,
Plaintiff,

vs.

LELAND SYCAMORE, TYLER
SYCAMORE, WILD GRAINS BAKERY,
LLC, AND UNITED STATES BAKERY,
Defendants.

**DEFENDANTS TYLER SYCAMORE,
WILD GRAINS BAKERY LLC, AND
UNITED STATES BAKERY PROPOSED
SPECIAL VERDICT FORM**

Civil No. 2:13-cv-00749-DN-DBP

Judge David Nuffer

Magistrate Judge Dustin B. Pead

Defendant Tyler Sycamore (“Sycamore”), Wild Grains Bakery, LLC (“Wild Grains”), and United States Bakery (“USB”) by and through undersigned counsel, hereby submit the following proposed Special Verdict Form.

MEMBERS OF THE JURY:

Please answer the following questions *in the order they are presented*. Except where otherwise directed, if you find that the issue has been proved by a preponderance of the evidence, meaning when reviewing the evidence the issue to be proved is more likely than not, answer “Yes.” If you find otherwise, answer “No.”

WE THE JURY, in the above-entitled case, find as follows:

Question 1.

Is Bimbo’s recipe and process for baking Grandma Sycamore’s generally known or readily ascertainable by proper means by Defendants based on their knowledge and experience?

YES_____ NO_____

If you answered “No” proceed to Question 2. If you answered “Yes” please go to Question 20.

Question 2.

Does Bimbo’s recipe and process for baking Grandma Sycamore’s obtain economic value from not being generally known or readily ascertainable?

YES_____ NO_____

If you answered “Yes” proceed to Question 3. If you answered “No” go to Question 20.

Question 3.

Has Bimbo taken reasonable steps to maintain the secrecy of its recipe and process for baking Grandma Sycamore’s?

YES_____ NO_____

If you answered “Yes” proceed to Question 4. If you answered “No” go to Question 20.

Question 4.

Did Leland Sycamore misappropriate the recipe and process for baking Grandma Sycamore's by:

- a) Acquiring the recipe and process of baking Grandma Sycamore's while knowing that it was acquired by theft, bribery, misrepresentation, breach of a duty to maintain secrecy or espionage?

YES_____ NO_____

- b) Using theft, bribery, misrepresentation, breach of a duty to maintain secrecy, or espionage to acquire the recipe and process of baking Grandma Sycamore's and use or disclose it without the consent of Bimbo?

YES_____ NO_____

- c) Using or disclosing the recipe and process of baking Grandma Sycamore's knowing or having reason to know it was derived from or through a person who used improper means to acquire it, who acquired it under circumstances giving rise to a duty to maintain its secrecy or limit its use, or who derived it from a person who owed a duty to Bimbo to maintain its secrecy or limit its use?

YES_____ NO_____

- d) Using or disclosing the recipe and process of baking Grandma Sycamore's knowing of having reason to know that Bimbo's recipe and process was a trade secret and that he acquired knowledge of the trade secret by accident or mistake and used it anyway?

YES_____ NO_____

If you answered "Yes" to any portion of Question 4, proceed to Question 5. If you answered "No" to each portion of Question 4, please go to Question 8.

Question 5.

Did Bimbo suffer harm as a direct and proximate result of Leland Sycamore's misappropriation of the recipe and process for baking Grandma Sycamore's or did Leland Sycamore obtain a benefit from the misappropriation of Bimbo's trade secret?

YES_____ NO_____

If you answered "Yes" proceed to Question 6. If you answered "No" please go to Question 8.

Question 6.

State the amount of damages suffered by Bimbo as a result of Leland Sycamore's misappropriation of Bimbo's trade secret or state the amount of the benefit Leland Sycamore obtained as a result of misappropriating Bimbo's trade secret.

\$_____

Please go to Question 7.

Question 7.

Has Bimbo proven by clear and convincing evidence that Leland Sycamore willfully misappropriated Bimbo's trade secret?

YES_____ NO_____

Please go to Question 8.

Question 8.

Did Tyler Sycamore misappropriate the recipe and process for baking Grandma Sycamore's by:

- a) Acquiring the recipe and process of baking Grandma Sycamore's while knowing that it was acquired by theft, bribery, misrepresentation, breach of a duty to maintain secrecy or espionage?

YES_____ NO_____

- b) Using theft, bribery, misrepresentation, breach of a duty to maintain secrecy, or espionage to acquire the recipe and process of baking Grandma Sycamore's and use or disclose it without the consent of Bimbo?

YES_____ NO_____

- c) Using or disclosing the recipe and process of baking Grandma Sycamore's knowing or having reason to know it was derived from or through a person who used improper means to acquire it, who acquired it under circumstances giving rise to a duty to maintain its secrecy or limit its use, or who derived it from a person who owed a duty to Bimbo to maintain its secrecy or limit its use?

YES_____ NO_____

- d) Using or disclosing the recipe and process of baking Grandma Sycamore's knowing or having reason to know that Bimbo's recipe and process was a trade secret and that he acquired knowledge of the trade secret by accident or mistake and used it anyway?

YES_____ NO_____

If you answered "Yes" to any portion of Question 8, proceed to Question 9. If you answered "No" to each portion of Question 8, please go to Question 12.

Question 9.

Did Bimbo suffer harm as a direct and proximate result of Tyler Sycamore's misappropriation of the recipe and process for baking Grandma Sycamore's or did Tyler Sycamore obtain a benefit from the misappropriation of Bimbo's trade secret?

YES_____ NO_____

If you answered "Yes" proceed to Question 10. If you answered "No" please go to Question 12.

Question 10.

State the amount of damages suffered by Bimbo as a result of Tyler Sycamore's misappropriation of Bimbo's trade secret or state the amount of the benefit Wild Grains obtained as a result of misappropriating Bimbo's trade secret.

\$_____

Please go to Question 11.

Question 11.

Has Bimbo proven by clear and convincing evidence that Tyler Sycamore willfully misappropriated Bimbo's trade secret?

YES_____ NO_____

Please go to Question 12.

Question 12.

Did Wild Grains Bakery misappropriate the recipe and process for baking Grandma Sycamore's by:

- a) Acquiring the recipe and process of baking Grandma Sycamore's while knowing that it was acquired by theft, bribery, misrepresentation, breach of a duty to maintain secrecy or espionage?

YES_____ NO_____

- b) Using theft, bribery, misrepresentation, breach of a duty to maintain secrecy, or espionage to acquire the recipe and process of baking Grandma Sycamore's and use or disclose it without the consent of Bimbo?

YES_____ NO_____

- c) Using or disclosing the recipe and process of baking Grandma Sycamore's knowing or having reason to know it was derived from or through a person who used improper means to acquire it, who acquired it under circumstances giving rise to a duty to maintain its secrecy or limit its use, or who derived it from a person who owed a duty to Bimbo to maintain its secrecy or limit its use?

YES_____ NO_____

- d) Using or disclosing the recipe and process of baking Grandma Sycamore's knowing or having reason to know that Bimbo's recipe and process was a trade secret and that it acquired knowledge of the trade secret by accident or mistake and used it anyway?

YES_____ NO_____

If you answered "Yes" to any portion of Question 12, proceed to Question 13. If you answered "No" to each portion of Question 12, please go to Question 16.

Question 13.

Did Bimbo suffer harm as a direct and proximate result Wild Grains Bakery's misappropriation of the recipe and process for baking Grandma Sycamore's or did Wild Grains Bakery obtain a benefit from the misappropriation of Bimbo's trade secret?

YES_____ NO_____

If you answered "Yes" proceed to Question 14. If you answered "No" please go to Question 16.

Question 14.

State the amount of damages suffered by Bimbo as a result of Wild Grains Bakery's misappropriation of Bimbo's trade secret or state the amount of the benefit Wild Grains Bakery obtained as a result of misappropriating Bimbo's trade secret.

\$_____

Please go to Question 15.

Question 15.

Has Bimbo proven by clear and convincing evidence that Wild Grains Bakery willfully misappropriated Bimbo's trade secret?

YES_____ NO_____

Please go to Question 16.

Question 16.

Did United States Bakery misappropriate the recipe and process for baking Grandma Sycamore's by:

- a) Acquiring the recipe and process of baking Grandma Sycamore's while knowing that it was acquired by theft, bribery, misrepresentation, breach of a duty to maintain secrecy or espionage?

YES_____ NO_____

- b) Using theft, bribery, misrepresentation, breach of a duty to maintain secrecy, or espionage to acquire the recipe and process of baking Grandma Sycamore's and use or disclose it without the consent of Bimbo?

YES_____ NO_____

- c) Using or disclosing the recipe and process of baking Grandma Sycamore's knowing or having reason to know it was derived from or through a person who used improper means to acquire it, who acquired it under circumstances giving rise to a duty to maintain its secrecy or limit its use, or who derived it from a person who owed a duty to Bimbo to maintain its secrecy or limit its use?

YES_____ NO_____

- d) Using or disclosing the recipe and process of baking Grandma Sycamore's knowing or having reason to know that Bimbo's recipe and process was a trade secret and that it acquired knowledge of the trade secret by accident or mistake and used it anyway?

YES_____ NO_____

If you answered "Yes" to any portion of Question 16, proceed to Question 17. If you answered "No" to each portion of Question 16, go to Question 20.

Question 17.

Did Bimbo suffer harm as a direct and proximate result of United States Bakery's misappropriation of the recipe and process for baking Grandma Sycamore's or did United States Bakery obtain a benefit from the misappropriation of Bimbo's trade secret?

YES_____ NO_____

If you answered "Yes" proceed to Question 18. If you answered "No" please go to Question 20.

Question 18.

State the amount of damages suffered by Bimbo as a result of United States Bakery's misappropriation of Bimbo's trade secret or state the amount of the benefit United States Bakery obtained as a result of misappropriating Bimbo's trade secret.

\$_____

Please go to Question 19.

Question 19.

Has Bimbo proven by clear and convincing evidence that United States Bakery willfully misappropriated Bimbo's trade secret?

YES_____ NO_____

Please go to Question 20.

Question 20.

Did United States Bakery use "Freshly Baked in Utah" channel strips in connection with products that were not made in Utah?

YES _____ NO _____

If you answered "no," to Question 20, go directly to Question 23. If you answered "yes" to Question 20, go to Question 21.

Question 21.

Did United States Bakery's use of "Freshly Baked in Utah" channel strips in connection with products that were not made in Utah constitute (1) a materially false or misleading representation of fact in connection with the commercial advertising or promotion of its product, (2) in commerce, (3) that actually caused confusion or mistake as to (a) the origin, association or approval of the product with another or (b) the characteristics of the goods, and (4) that caused injury to Bimbo Bakeries USA, Inc.?

YES _____ NO _____

If you answered "no," to Question 21, go directly to Question 23. If you answered "yes" to Question 21, go to Question 22.

Question 22.

What amount of damages resulted from United States Bakery's use of the "Freshly Baked in Utah" channel strips in connection with products that were not made in Utah?

\$ _____

Please go to Question 23.

Question 23.

Was United States Bakery's use of the word "local" in its "Fresh. Local. Quality." tagline in connection with the sale of products not made in Utah (1) a materially false or misleading representation of fact in connection with the commercial advertising or promotion of its product, (2) in commerce, (3) that actually caused confusion or mistake as to (a) the origin, association or approval of the product with another or (b) the characteristics of the goods, and (4) that caused injury to Bimbo Bakeries USA, Inc.?

YES _____ NO _____

If you answered "no" to Question 23, go directly to Question 25. If you answered "yes" to Question 23, go to Question 24.

Question 24.

What amount of damages resulted from United States Bakery's use of the word "local" in connection with the sale of products not made in Utah?

\$ _____

[Include 25 only if plaintiff is permitted to pursue claims for sales by United States Bakery outside of the state of Utah.]

Question 25.

In states other than Utah, was United States Bakery's use of the word "local" in its "Fresh. Local. Quality." tagline in connection with the sale of products not made in the state where the products were sold (1) a materially false or misleading representation of fact in connection with the commercial advertising or promotion of its product, (2) in commerce, (3) that actually caused confusion or mistake as to (a) the origin, association or approval of the product with another or (b) the characteristics of the goods, and (4) that caused injury to Bimbo Bakeries USA, Inc.?

YES _____ NO _____

If you answered "no," to Question 25, STOP. Do not continue with this verdict form. Skip the remaining question and simply have the presiding juror sign and date the bottom of the form. If you answered "yes" to Question 25, go to Question 26.

[Include 26 only if plaintiff is permitted to pursue claims for sales by United States Bakery outside of the state of Utah.]

Question 26.

In states other than Utah, what amount of damages resulted from United States Bakery's use of the word "local" in its "Fresh. Local. Quality." tagline in connection with the sale of products not made in the state where the products were sold?

\$ _____

Please have the foreperson sign this Special Verdict Form and return the form.

PLEASE SIGN AND DATE THIS FORM:

DATED this _____ day of _____, 2017

_____ **Jury Foreperson**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of August 2017, the foregoing
DEFENDANTS TYLER SYCAMORE, WILD GRAINS BAKERY LLC, AND UNITED STATES BAKERY PROPOSED SPECIAL VERDICT FORM was electronically filed with the Clerk of the Court, District of Utah, using the CM/ECF system and served on the following:

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/s/ Ruth Betancourt Ortiz, Legal Assistant